



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/157902

PRELIMINARY RECITALS

Pursuant to a petition filed May 23, 2014, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on July 29, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether the agency correctly discontinued Petitioner's BadgerCare+ when it became aware of household income in excess of the income eligibility limit.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

;

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Simone Johnson

Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner became eligible for BadgerCare+ effective April 1, 2014.
3. Petitioner had a FoodShare case review not long after being determined eligible for BadgerCare+.

4. As part of Petitioner's FoodShare case review the agency determined his income. Gross income was \$894 per month from Social Security and approximately \$1000 per month from a part-time job. Thus Petitioner's gross income per month is approximately \$1900.
5. Petitioner's household size is one. He is 64 years of age (DOB 2/20/50).
6. 100% of the federal poverty level for a group of one is \$972.50 per month. *BadgerCare+ Eligibility Handbook (BEH)*, §50.1.
7. Realizing that Petitioner's income was in excess of the income limit for BadgerCare+ the agency switched Petitioner's medical benefit eligibility category to the Medicaid Purchase Plan program (MAPP). This was based upon the erroneous determination that Petitioner's Social Security income was disability income rather than retirement income.

DISCUSSION

BadgerCare+ is Wisconsin's medical assistance program for those who are not elderly or disabled. Effective April 1, 2014, Wisconsin state law changed and lowered the amount of adjusted gross income a household can have and still be eligible for benefits to 100% of the Federal Poverty Level for adults and 300% for children. *Wis. Stat. § 49.471(4)(a)*. This change was to be effective January 1, 2014 but was held off until April 1 to assure coordination with other changes in healthcare options; especially the Affordable Care Act. 100% of the Federal Poverty Level for a 1 person household is \$972.50 per month. *BEH*, §50.1. The agency determined that Petitioner was BadgerCare+ eligible not realizing that Petitioner had earned income pushing total income above the \$972.50 income limit.

Petitioner filed this appeal seeking a restoration of his BadgerCare+ benefits contending that those benefits should not have been terminated until the next renewal of his BadgerCare+.

The agency is, however, required to act on changes that it becomes aware of. *BEH*, §27.4. Thus the discontinuance of Petitioner's BadgerCare+ was correct.

Petitioner should be aware, however, that MAPP eligibility requires a finding of disability. *Medicaid Eligibility Handbook*, §26.3.1. It does not appear that there had been a finding of disability as of the time of this hearing, thus Petitioner may find that his MAPP eligibility will be discontinued.

CONCLUSIONS OF LAW

That Petitioner's BadgerCare+ correctly discontinued as Petitioner's income is in excess of BadgerCare+ income limits and the agency is required to act on changes it becomes aware of.

THEREFORE, it is

ORDERED

That this appeal is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as

"PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 3rd day of September, 2014

\sDavid D. Fleming
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on September 3, 2014.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability